

54-7-12 Rate increase or decrease -- Procedure -- Effective dates -- Electrical or telephone cooperative.

(1) As used in this section:

(a)

(i) "Base rates" means those charges included in a public utility's generally applicable rate tariffs, including:

(A) a fare;

(B) a rate;

(C) a rental;

(D) a toll; or

(E) any other charge generally applicable to a public utility's rate tariffs.

(ii) Unless included by a commission order, "base rates" does not include charges included in:

(A) a deferred account;

(B) a balancing account;

(C) a major plant addition surcharge;

(D) a major plant addition surcredit;

(E) a special contract; or

(F) a public utility program offering.

(b)

(i) "Complete filing" means an application filed by a public utility that substantially complies with minimum filing requirements established by the commission, by rule, for a general rate increase or decrease.

(ii) The commission shall within 180 days after March 25, 2009 create and finalize rules concerning the minimum requirements to be met for an application to be considered a complete filing.

(c) "General rate decrease" means:

(i) any direct decrease to a public utility's base rates; or

(ii) any modification of a classification, contract, practice, or rule that decreases a public utility's base rates.

(d) "General rate increase" means:

(i) any direct increase to a public utility's base rates; or

(ii) any modification of a classification, contract, practice, or rule that increases a public utility's base rates.

(2)

(a) A public utility that files for a general rate increase or general rate decrease shall file a complete filing with the commission setting forth the proposed rate increase or decrease.

(b)

(i) For purposes of this Subsection (2), a public utility's application for a general rate increase or decrease shall be considered a complete filing unless within 30 days after the day on which the commission receives the public utility's application, the commission issues an order describing information that the public utility must provide for the application to be considered a complete filing.

(ii) Subject to Subsection (2)(b)(iii) and within 14 days after the day on which the application is received by the commission, a party or a person may file a motion to challenge whether an application for a general rate increase or decrease is a complete filing.

(iii) A party or a person may not file a motion described in Subsection (2)(b)(ii) unless the person or party has first filed a motion to intervene with the commission.

- (c) If, in accordance with Subsection (2)(b)(i), the commission issues an order that an application is not a complete filing, the commission shall:
 - (i) determine the materiality of an application deficiency; and
 - (ii)
 - (A) if the deficiencies are not material, issue an order that the 240-day period described in Subsection (3)(a) shall continue without delay or be suspended and resume when the public utility files the required information; or
 - (B) if the deficiencies are material, issue an order that the 240-day period described in Subsection (3)(a) shall start over when the public utility files the required information.
 - (d)
 - (i) The commission shall, after reasonable notice, hold a hearing to determine whether the proposed rate increase or decrease, or some other rate increase or decrease, is just and reasonable.
 - (ii) If a rate decrease is proposed by a public utility, the commission may waive a hearing unless it seeks to suspend, alter, or modify the rate decrease.
 - (e) Except as otherwise provided in Subsection (2)(d), (3), or (4), a proposed rate increase or decrease is not effective until after completion of the hearing and issuance of a final order by the commission concerning the proposed increase or decrease.
- (3)
- (a) Within 240 days after a public utility submits a complete filing, the commission shall issue a final order to:
 - (i) grant the proposed general rate increase or decrease;
 - (ii) grant a different general rate increase or decrease; or
 - (iii) deny the proposed general rate increase or decrease.
 - (b) If the commission does not issue a final written order within 240 days after the public utility submits a complete filing in accordance with Subsection (3)(a):
 - (i) the public utility's proposed rate increase or decrease is final; and
 - (ii) the commission may not order a refund of any amount already collected or returned by the public utility under Subsection (4)(a).
- (4)
- (a)
 - (i) A request for interim rates shall be made within 90 days after the day on which a public utility files a complete filing for a general rate increase or a general rate decrease.
 - (ii) The commission, on its own initiative or in response to an application by a public utility or other party, may, after a hearing, allow any rate increase or decrease proposed by a public utility, or a reasonable part of the rate increase or decrease, to take effect on an interim basis within 45 days after the day on which the request is filed, subject to the commission's right to order a refund or surcharge.
 - (iii) The evidence presented in the hearing held pursuant to this Subsection (4) need not encompass all issues that may be considered in a rate case hearing held pursuant to Subsection (2)(d), but shall establish an adequate prima facie showing that the interim rate increase or decrease is justified.
 - (b) The commission may, after a hearing, issue a final order before the expiration of 240 days after the day on which the public utility files a complete filing establishing the utility's revenue requirement and fixing the utility's allowable rates before the commission determines the final allocation of the increase or decrease among categories of customers and classes of service.
 - (c)

- (i) If the commission in the commission's final order on a public utility's revenue requirement finds that the interim increase ordered under Subsection (4)(a)(ii) exceeds the increase finally ordered, the commission shall order the public utility to refund the excess to customers.
 - (ii) If the commission in the commission's final order on a public utility's revenue requirement finds that the interim decrease ordered under Subsection (4)(a)(ii) exceeds the decrease finally ordered, the commission shall order a surcharge to customers to recover the excess decrease.
- (5)
 - (a) Notwithstanding any other provisions of this title, any schedule, classification, practice, or rule filed by a public utility with the commission that does not result in any rate increase shall take effect 30 days after the date of filing or within any lesser time the commission may grant, subject to its authority after a hearing to suspend, alter, or modify that schedule, classification, practice, or rule.
 - (b) When the commission suspends a schedule, classification, practice, or rule, the commission shall hold a hearing on the schedule, classification, practice, or rule before issuing its final order.
 - (c) For purposes of this Subsection (5), any schedule, classification, practice, or rule that introduces a service or product not previously offered may not result in a rate increase.
- (6) Notwithstanding any other provision of this title, whenever a public utility files with the commission any schedule, classification, practice, or rule that does not result in an increase in any rate, fare, toll, rental, or charge, the schedule, classification, practice, or rule shall take effect 30 days after the date of filing or at any earlier time the commission may grant, subject to the authority of the commission, after a hearing, to suspend, alter, or modify the schedule, classification, practice, or rule.
- (7) This section does not apply to any rate changes of an electrical or telephone cooperative that meets all of the requirements of this Subsection (7).
 - (a)
 - (i) The cooperative is organized for the purpose of either distributing electricity or providing telecommunication services to its members and the public at cost.
 - (ii) "At cost" includes interest costs and a reasonable rate of return as determined by the cooperative's board of directors.
 - (b) The cooperative's board of directors and any appropriate agency of the federal government have approved the rate increase or other rate change and all necessary tariff revisions reflecting the increased rate or rate change.
 - (c) Before implementing any rate increases, the cooperative has held a public meeting for all its customers and members. The cooperative shall mail a notice of the meeting to all of the cooperative's customers and members not less than 10 days prior to the date that the meeting is held.
 - (d) The cooperative has filed its tariff revisions reflecting the rate increase or other rate change with the commission, who shall make the tariffs available for public inspection.
- (8) Notwithstanding Subsections (2) and (4), the procedures for implementing a proposed rate increase by a telephone corporation having less than 30,000 subscriber access lines in the state are provided in this Subsection (8).
 - (a)
 - (i) The proposed rate increase by a telephone corporation subject to this Subsection (8) may become effective on the day the telephone corporation files with the commission

the proposed tariff revisions and necessary information to support a determination by the commission that the proposed rate increase is just and reasonable.

- (ii) The telephone corporation shall notify the commission and all potentially affected access line subscribers of the proposed rate increase 30 days before filing the proposed rate increase or change.
- (b)
 - (i) The commission may investigate whether the proposed rate increase is just and reasonable.
 - (ii) If the commission determines, after notice and hearing, that the rate increase is unjust or unreasonable in whole or in part, the commission may establish the rates, charges, or classifications that the commission finds to be just and reasonable.
- (c) The commission shall investigate and hold a hearing to determine whether any proposed rate increase is just and reasonable if 10% or more of the telephone corporation's potentially affected access line subscribers file a request for agency action requesting an investigation and hearing.

Amended by Chapter 319, 2009 General Session